**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**WRIT PETITION No. 19279 of 1997**

**Dated: 15.03.2007**

Between:

Executive Engineer,
Vamsadhara Project, Narasannapet,
Srikakulam District.

... Petitioner

AND

R. Balananda Rao & another.

... Respondents

**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**WRIT PETITION No. 19279 of 1997**

**ORDER:-**

This writ petition is filed questioning the award of the Industrial Tribunal-cum-Labour Court, Visakhapatnam (for short "the Labour Court") in I.D.No.82 of 1991 dated 28.08.1996 whereby the reference in the dispute raised by the 1st respondent, workman, was answered in his favour with a declaration that the termination of his services was not justified and the petitioner herein was directed to reinstate the 1st respondent as NMR worker and pay him a compensation of Rs.10,000/- without backwages and without continuity of service.

The 1st respondent's claim before the Labour Court is that he continuously worked from 04.03.1981 to 31.03.1983 when his services were terminated without a notice or payment of compensation in lieu thereof as prescribed under Section 25-F of the Industrial Disputes Act, 1947 (for short "the Act"). In support of his claim that he worked during the said period and thereby had put in 240 days of continuous service, he examined himself as WW.1 apart from examining other witnesses viz., WW.2 to WW.5. The 1st respondent also produced into evidence a certificate issued by the then Executive Engineer, who was examined as WW.4 and the said certificate was marked as Ex.W4. The claim of the 1st respondent regarding the service put in by him

was supported by all the witnesses whom he had examined including the Supervisor - WW.5, under whom he worked. When the certificate – Ex.W4 was put to the witness i.e., WW.4, who issued the same, he admitted his signature, but however he stated that whether the 1st respondent had worked during that period is to be verified with reference to the musters. Admittedly the nominal muster rolls are not produced by the petitioner, who is the custodian of those musters.

The Labour Court on a consideration of the entire material on record came to the conclusion that the 1st respondent had in fact put in more than 240 days of continuous service between 04.03.1981 to 31.01.1983 and that the termination made without following the mandatory provision of Section 25-F of the Act was illegal. On the strength of the said finding, a direction to reinstate the 1st respondent without continuity of service and backwages was given.

Learned Assistant Government Pleader sought to contend, but in vain, that the award of the Labour Court suffers from error of law.

The award is based on the analysis of the evidence of WW.4 and WW.5, the supervisor under whom the 1st respondent worked and this Court, while exercising the power of judicial review under Article 226 of the Constitution of India, would not re-appreciate the evidence in order to come to a different finding. The Labour Court was also fair to the petitioner in denying the backwages to the 1st respondent while ordering reinstatement. I do not therefore see any error in the award passed by the Labour Court.

The writ petition is therefore dismissed. No costs.

**C.V. NAGARJUNA REDDY, J**

Date: 15.03.2007
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